IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 16782 of 2007(W)

RCA.88/2006 of ADDL.DISTRICT COURT, KOZHIKODE
.....

PETITIONER:

MALIKKANDI SEKHARAN, AGED 74 YEARS,
S/O.KANDON, CHAKILIPADAM PARAMBU, 27/1796,
PRINTING PRESS IN LINE ROOM, PUTHIYAPALAM,
KOOTTOOLI AMSOM, PARAYANCHERI DESOM,
KOZHIKODE.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS:
----

1. BATTOLI SAINABI, D/O.SAIDHALI,
PALATT HOUSE, NAGARAM AMSOM AND DESOM,
KOZHIKODE TALUK.

2. BATTOLI AYISHABI, D/O.SAIDHALI,
PALATT HOUSE, NAGARAM AMSOM AND DESOM,
KOZHIKODE TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

W.P.(C).NO.16782 OF 2007 (W)

Dated this the 1st day of June, 2007

J U D G M E N T

KOSHY,J.

This writ petition is filed under Article 227 of the Constitution of India. Petitioner is the tenant who was ordered to be evicted by the Rent Control Authority under Section 11 (2) (b) (arrears of rent) and 11 (3) (bona fide need) of the Building and Rent Control Act. Appeal was filed before the appellate authority. In the appeal he filed an application for commission. He could have filed an application before the Rent control authority. The appellate authority rejected the above application by Ext.P4 as nothing prevented him from filing such an application before the Rent controller. There was no allegation that need for commission arose subsequently. Mere allegation of absence of proper legal advice is not enough to grand. Rent controller passed the order in February 2006. But

application was filed in March 2007. Filing of such commission applications before the appellate authority belatedly only will prolong the case. The commission report is only a piece of evidence. He could have adduced other evidence also. In any event, we are not inclined to interfere or delay the proceedings by interfering in interim order of authorities by invoking extra ordinary supervisory jurisdiction under Article 227 of the Constitution of India. If he is aggrieved by the final order of the appellate authority he can file and take all time granted at the time of filing revision. Accordingly this writ petition is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

1st June, 2007